




DIRECTIVE: 8.7

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DATE OF APPROVAL: 5/30/2017	DATE OF ISSUE: 5/30/2017	APPLICABLE ACCREDITATION STANDARDS		
ISSUED BY: Robert J. Tracy Chief of Police Reviewed: 11/2/2016				

COMPLAINT HEARING BOARD

- A. All members with the rank of Captain or above, excluding the Chief of Police, the Inspector of **Investigative Operations**, and the Commanding Officer of the **Office of Professional Standards**, will be eligible to sit upon Complaint Hearing Boards.
- B. Members of a Complaint Hearing Board will be selected by the Inspector of **Investigative Operations**, or by his/her designee, and will be responsible for obtaining thorough knowledge of all procedures concerning the conduct of the Complaint Hearing Board.
- C. All Complaint Hearing Boards shall consist of three (3) members.
- D. A Complaint Hearing Board will be convened when:
1. The complaint lodged does not fall within the Summary Punishment Process.
 2. When the accused officer requests a Complaint Hearing Board, whether falling in the Summary Punishment Process or not.
 3. Upon direct order of the Chief of Police, regardless of the nature of the infraction.
 4. When circumstances would dictate that the Complaint Hearing Board be convened to better serve the cause of fairness or justice.
- E. The Commanding Officer of the **Office of Professional Standards** will ensure that all cases are prepared for presentation before departmental Complaint Hearing Boards. He will schedule all



cases and arrange for the proper recording of all proceedings. In the event the accused is entitled to a hearing, a hearing shall be scheduled within a reasonable time from the alleged incident, but in no event more than thirty (30) days following the conclusion of the investigation, unless waived in writing by the charged officer.

- F. All charge papers and Complaint Hearing Board results will be written as a departmental memorandum and cataloged in the appropriate manner. Written notice of the charge papers will be provided to the accused, specifying the time and place of the hearing, issues (including specification of actual fact), statement of the rule violated, and the range of punishment for the specified charge.
- G. The Complaint Hearing Board is to determine the guilt or innocence of the accused based on the facts placed before it. The Complaint Hearing Board is not a judicial trial and may admit any evidence pertinent to the issue. The presiding officer of the Complaint Hearing Board will be chosen by seniority to grade, or rank when applicable, and he shall oversee the conduct of the proceedings.

Members of the Complaint Hearing Board shall be administered the following oath by the prosecutor at the commencement of the hearing:

“Do you solemnly swear (affirm) that you will faithfully and impartially determine, according to the evidence, the case now before the board (so help you God)?”

- H. All decisions of the Complaint Hearing Board will be made by the vote of the majority. The accused shall be adjudged guilty of any charge upon which the Complaint Hearing Board is satisfied that guilt has been established by a preponderance of evidence.
- I. The Complaint Hearing Board shall consider all relevant facts involving the matter before it, including, but not limited to the investigative reports, statements, other documents, testimony of witnesses, and, such other evidence as it deems appropriate. All records and documents offered into evidence shall be made a part of the record. The Board will hear the plea of any accused who wishes to be heard and, in its discretion, may order any member of the department to appear. On the basis of its findings, the trial board shall fashion the appropriate punishment which shall include one of the following based upon the classification system:
 - 1. The case be remanded for further investigation with specific recommendations.
 - 2. Dismissal of the charge.
 - 3. Finding a charge not substantiated



4. Finding a charge substantiated and imposing disciplinary measures as outlined for the specific violation consisting of, but not limited to, the following:
 - a. Official reprimand
 - b. Suspension without pay
 - c. Demotion in rank
 - d. Dismissal
 5. As specified, the Inspector of **Investigative Operations** has the responsibility to elevate an offense with regard to its classification of punishment if, and only if, the elements of intent or recklessness are present. Should the **Office of Professional Standards** fail to prove the applicable state of mind in the charge conclusively, then the Trial Board or authorized prior of fact, shall have the right to reduce an elevated offense to its original classification for punishment.
- J. In addition to any of the above sustained actions, the Board may impose a disciplinary probation. Disciplinary probation is defined as that period of time, not to exceed twelve (12) months, when an employee is placed on notice that his job related activity will be closely monitored in an effort to correct his performance. Probationary criteria may detail additional sanctions which have been deemed by the Complaint Hearing Board to be appropriate measures for the specified infraction(s). Disciplinary probation criteria include, but is not limited to, the following:
1. Psychological evaluation
 2. Referral to a rehabilitation center
 3. Restricted duty (i.e. extra duty jobs)
 4. Restitution for lost or damaged property
 5. Referral to Chief for review of promotion eligibility
 6. Administrative Leave
- K. All Complaint Hearing Boards will be recorded on reproductive tapes.
- L. The accused officer does not have the right of discovery regarding reports and/or statements submitted by other members of the Department or civilians relative to the incident, unless such reports are exculpatory, or are introduced as evidence into the hearing, or otherwise supplied to the Complaint Hearing Board or Appeal Board, or in the event that the officer or civilian who prepared the report or statement testifies at the Complaint Hearing Board, or Appeal Board, about subjects covered in his report or statement.



During the course of the hearing, the accused officer shall have the right of cross examination of witnesses who testify, and may submit rebuttal testimony.

The accused officer shall have the right to review and procure copies of all reports which he wrote relative to the charges at hand.

All expenses that arise as a result of the accused officer being supplied with requested reports shall be paid by said officer at the current cost per copy for the Department.

- M. Prior to any person giving testimony before the **Complaint** Hearing Board, it will be compulsory that said person affirm or swear to the following oath:

“Do you solemnly swear/affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?”

- N. Once the decision has been made by the Complaint Hearing Board, the penalty will be imposed, unless appealed, according to departmental procedure. **If the penalty of termination is imposed, the termination will take effect immediately, regardless if an appeal is filed.**
- O. The accused will be informed in writing of the decision made by the Complaint Hearing Board members by its members at the conclusion of the hearing.
- P. At no time will weapons be worn or permitted in the Complaint Hearing Board or Appeal Hearing Board. Weapons will be secured in the **Office of Professional Standards** or other appropriate locations.
1. Officers attending Family Court Hearings wherein they are either litigants or defendants will be prohibited from wearing or carrying a weapon into the Court Room.
 2. Officers attending Family Court Hearings wherein they are either litigants or defendants will wear normal street attire and at no time will they wear the official uniform of this department
- Q. The Chief of Police, or his designee, may impose suspension upon any member for a justifiable cause or in the best interest of the Department. Whenever the Chief or his designee elects to act under this subsection, **an informal pre-suspension hearing shall occur. At the pre-suspension hearing the Chief of Police or his designee shall provide the accused officer with notice of the charges against him and the accused officer shall have an opportunity to respond. The pre-suspension hearing shall be conducted on an expedited time frame and it shall not be a full evidentiary hearing.**



- R. When a member of the Department of Police desires to resign or retire from the service, he shall forward his application for resignation or retirement to the Chief of Police at least ten (10) days in advance of the date requested for resignation or retirement. No resignation or retirement shall become effective until approved by the Chief of Police.

If a member of the Department of Police submits a request to resign while he is under a current investigation, one of three actions may be taken by the Chief of Police:

1. He may accept the resignation from the officer in question
2. He may reject the resignation and take other appropriate action if he so deems
3. He may reject the resignation and order the officer dismissed from the Department of Police

- S. In cases where termination is the result of a Complaint Hearing Board, the **Office of Professional Standards** will provide the following information to the terminated officer:

1. Statement citing reasons for dismissal
2. Effective date of dismissal
3. Statement of the status of fringe and retirement benefits after dismissal
4. Statement as to the content of the officer's employment record relating to the dismissal

